IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

OP.No. 20788 of 2001(Y)

PETITIONER:

RAJESH.M.R.,
MANJARI, VEERALAM, ATTINGAL,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.VPK.PANICKER
SMT.SREELEKHA PUTHALATH
ADV. SHRI.GEORGE VARGHESE PERUMPALLIKUTTIYIL

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE TAHSILDAR, CHIRANYINKEEZH TALUK, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SHRI.MOHAMMED RAFFIQ, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO. 20788/2001

ORDER ON CMP NO. 33788/2001 IN OP 20788/2001

DISMISSED.

21/06/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE ASSESSMENT ORDER ISSUED BY THE 2ND RESPONDENT NO.B6.2397/2001/D.DIS. DATED 20/03/2001.

P2 : COPY OF THE NOTICE OF DEMAND ISSUED BY THE 2ND RESPONDENT NO. B6.2397/2001/D.DIS. DATED 20/03/2001.

P3 : COPY OF THE ENTRY in the BUILDING TAX ASSESSMENT REGISTER FOR BUILDING XII/751 IN ATTINGAL MUNCIPALITY FOR THE ASSESSMENT YEAR 1987-88.

P4 : COPY OF THE ENTRY IN THE BUILDING TAX ASSESSMENT REGISTER FOR BUILDING XII/814 IN ATTINGAL MUNICIPALITY FOR THE ASSESSMENT YEAR 1992-93.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 20788 of 2001

Dated, this the 21st day of June, 2007

J U D G M E N T

Heard petitioner in person and the learned Government Pleader. The petitioner is challenging Ext.P1 & P2 assessment and demand of building tax in respect of residential building owned by the petitioner. It is seen that orders are issued without hearing the petitioner. According to the learned Government Pleader, even though an opportunity was granted, petitioner did not avail the same. Petitioner's case is that building was constructed in 1982-83, i.e. 25 years back and therefore the assessment made in 2001 is obviously time barred. According to him all what is done is repainting of the old building. Even if building was constructed in 1982-83, it should have been subjected to building tax assessment. It is not known whether there is any earlier assessment in respect of building. In the circumstances and since order is issued without considering any of these contentions, O.P. is disposed of directing Tahsildar to hear the petitioner and consider the evidence produced by the petitioner towards proofs of completion of construction of building several years back as claimed, and pass a detailed order either recalling the demand or sustaining the demand for valid

reasons after considering all objections of the petitioner. Petitioner is free to produce evidence such as Electricity Bills, Municipal tax receipts and other evidence. There will be direction to the Tahsildar to pass fresh orders within two months from the date of production of a copy of this judgment. Petitioner will produce copy of this judgment for compliance and appear on the date of posting given by the 2nd respondent for hearing and for production of documents. As and when revised orders are issued, 2nd respondent will recall the impugned orders.

2. Recovery proceedings will remain stayed for five months from now and thereafter recovery will be made based on fresh orders to be issued by the Tahsildar. There will be a direction to the 2nd respondent to give copy of the report to the petitioner before completion of proceedings.

This O.P. is disposed of as above

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg